

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 67476

Lynn Howard Schwartz
P. O. Box 201466
Arlington, Texas 76006-1446

15 Chesapeake Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer on October 7, 2009, for a Hearing on a citation for violations of the Baltimore County Code (BCC) section 35-6-105, 35-6-112: Respondent has not obtained a rental housing license for rental property known as 15 Chesapeake Avenue, 21204.

On September 8, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Kathleen O'Donnell issued a Code Enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$1,000.00 (one thousand dollars).

The following persons appeared for the Hearing and testified: Edward C. Covahey, Jr., Esquire, Covahey, Boozer, Devan & Dore, P.A., representing Respondent Lynn Howard Schwartz; Edward Dow, tenant; Carol Galladian, Towson University; and Kathleen O'Donnell, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on August 8, 2009 requiring application for a Rental Housing License by September 8, 2009. This Citation was issued on September 8, 2009.

B. Inspector Kathleen O'Donnell testified that on September 1, 2009, she received a complaint from Towson University that Respondent was renting apartments to Towson University students without a Rental Housing License. A Correction Notice was sent to Respondent. Respondent Schwartz called the Department and told Inspector O'Donnell that he did not know the property was being rented to students and that he did not give permission for it to be rented for residential use, and that he would therefore not be applying for a license.

C. Carol Galladian is the coordinator of off campus student services for Towson University. She testified that the University's International Student Support Office brought her this case and a lease agreement for this property. The student wanted to remove herself from the situation, and the University moved her out. The student requested a refund of rent paid, and was given a pro-rated refund. Ms. Galladian testified that there was another student also renting an apartment in this property.

D. Edward C. Dow resides in Arlington, Virginia and rents this property for his business. The business is located at 8 W. Susquehanna and part of the business space includes 15 W. Chesapeake, which is the address for the rentals used by the students. He leased the property in 1990 and signed a new lease in 2002. He has eight years remaining on the lease. He testified that the apartments in this property were in place before he leased the property, and that he believes they were in place prior to 1955. His business is selling and repairing laptop computers. He testified that he sometimes stayed in the apartment.

E. Mr. Dow testified that he rented a room to a Towson University student, and that he rented it without Mr. Schwartz's knowledge. He further testified that during the 1990's he rented occasionally to a student. He testified that as of September this year, there was just one Towson University student. He testified that he learned of the Rental Housing License requirement in mid

September when Respondent Schwartz called him. He received a letter from Mr. Schwartz telling him it was not authorized for use as an apartment and that the rental should cease. He did not evict the tenant because she had already moved out on September 2, 2009. Mr. Dow testified that the property has not been used as a rental unit or apartment since then. He further testified that the beds have been moved out of the property.

F. Mr. Edward Covahey, Jr., Attorney for Respondent, stated that the violation has been abated, and that no tenants reside in the property. He noted that Respondent never gave permission for residential rental. He requested that the penalty be rescinded.

G. Documents submitted include a Residential Lease Agreement between Edward Dow and a named tenant who is an international student at Towson University. The lease was dated July 28, 2009 and provided for total rent of \$5,278 for 12 months and 13 days. Attached is a typed receipt signed by Edward Dow acknowledging receipt of \$1,228 from the named tenant, via Paypal electronic funds transfer, for a \$575 room rental deposit and rental payment for one and half months at \$475 per month.

H. Photographs submitted by Mr. Dow show apartment rooms including a full kitchen, living room area, a room with desks and chairs, and a laundry room with washer and dryer. Several rooms appear to have personal furnishings and belongings in them. The kitchen has small appliances and dishes on the counters. The photographs are not dated.

I. Another document in the file, an email message from an unidentified person, describes the apartments. The sender of the email is "Lisa Li" and the message states, "I did want to also explain one curious thing about this apartment. There used to be two apartments. One had an entrance facing Susquehanna Ave and the other had an entrance facing Chesapeake Avenue. Mr. Dow joined the two apartments together and turned one of the kitchens into a laundry room. And now both apartments enter through the door on Chesapeake Ave. I wanted to explain this since the lease has the technical legal address, Susquehanna, but your entrance will be on Chesapeake Avenue."

J. Baltimore County law requires landlords to obtain a valid Rental Housing License before a residential property may be rented. BCC 35-6-105. The license is required whether the landlord is the property owner or a tenant wishing to rent to a sub-tenant. BCC 35-6-105. The evidence shows that at least one apartment at this commercial property was rented as a residence, to a student at Towson University, from August 19, 2009 until the student moved out on September 2, 2009.

K. The evidence also shows that the property owner corrected the violation within the time required by the County's Correction Notice, which stated that the application for Rental Housing License must be filed by September 8, 2009. The evidence shows that the tenant moved out September 2, 2009. Because the violation was corrected prior to the issuance of this Citation, the Citation will be DISMISSED.

IT IS ORDERED by the Code Enforcement Hearing Officer that the Citation is DISMISSED.

ORDERED this 9th day of November 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

